

## **REMARKS**

Applicant submits this Amendment and Response in reply to the Final Rejection dated October 6, 2009. Applicant submits that the Amendment and Response is fully responsive to the Official Action for at least the reasons set forth herein.

At the onset, Applicant submits that Claim 1 has been amended for clarification. Claim 1 has been amended to recite: "...a plurality of first portions having a first known structure in said receiving signal..." and, in order to reduce confusion, the wording "a portion" recited in step c of Claim 1 has been replaced with "a part". Claims 3, 4 and 6 – 8 have been amended to conform to the language recited in amended Claim 1. Additionally, Claim 27 has been amended to independent form including the limitations recited in Claim 1. Therefore, no new subject matter is introduced into the disclosure by way of the present amendment.

Also, Applicant thanks the Examiner for indicating that Claim 27 contains patentably distinct subject matter and thus would be allowable if rewritten in independent form including all the limitations recited in the base claim and any intervening claims. In response, Applicant has rewritten Claim 27 in independent form.

### **I. Rejection of Claims 1 and 3 - 6 Under 35 U.S.C. § 103(a)**

Claims 1 and 3 – 6 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 6,369,758 issued to Zhang, in view of ETSI EN 300 744 V.1.4.1 (hereinafter "ETSI") and further in view of U.S. Publication No. 2004/0242203 (hereinafter "Lipsanen"). Also, Claims 7 – 11 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Zhang, in view of ETSI and Lipsanen, and further in view of U.S. Patent No. 6,493,876 issued to DeFreese.

Amended Claim 1 recites that the method includes the steps of selecting a plurality of first portions having a first known structure structures in the wanted signal, said plurality of first portions being identified using a further known structure within the broadcast channel to provide a signal having known periods with defined properties; b) processing the received signal in accordance with said plurality of first portions known structures to derive a set of amplitude values corresponding to the said first known structures; and c) using the set of amplitude values to determine both a signal power level and an interference power level for at least part of the received signal. Consequently, a set of amplitude values derived from just one known structure in the received signal is used to determine both a signal power level and an interference power level. Zhang fails to disclose using the amplitude derived from one known structure in the received signal to determine both a signal power level and an interference power level for at least part of the received signal.

Rather, Zhang discloses a cellular telephone system in which the wanted signal has a channel structure including a data channel and a broadcast channel. A further structure in the broadcast channel is used to identify a plurality of first known structures to provide a signal having a known period with defined properties. In Zhang the interference power is measured from a null symbol, which does not have a signal power.

Column 5, lines 49 – 50 of Zhang recites: "... $P_n$  is the power of interference measured during the null symbol..." and Column 5, lines 10 – 14 recite: "...the null symbol 42 is a symbol that has no signal power at the beginning of the frame 38, thus allowing the adaptive antenna array to distinguish the null symbol from other symbols and measure interference characteristics of the channel. Therefore, the null signal in Zhang cannot be used to determine both a signal power level and an interference power level for at least part of the received signal. Moreover,

any modification of the null symbol in order to provide a signal power would render the Zhang cellular system inoperable for the intended purpose, since the interference characteristics would not be easily distinguished from the signal power.

ETSI, Lipsanen and DeFreese, taken alone or in any proper combination with Zhang, fail to overcome the deficiencies identified above. Therefore, for at least the reasons presented above, Claims 1 and 3 – 11 are believed to be allowable over the cited prior art references. Accordingly Applicant respectfully requests withdrawal of the rejection with respect to Claims 1 and 3 – 11 under 35 U.S.C. § 103(a) over Zhang in view of ETSI and further in view of Lipsanen and DeFreese.

In conclusion, the Applicant believes that the above-identified application is in condition for allowance and henceforth respectfully solicits the Examiner to allow the application. If the Examiner believes a telephone conference might expedite the allowance of this application, the Applicant respectfully requests that the Examiner call the undersigned, Applicant's attorney, at the following telephone number: (516) 742-4343.

Respectfully submitted,

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